



Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

February 7, 2003

The Honorable Henry B. Waxman
Ranking Minority Member
Committee on Government Reform
House of Representatives

Dear Mr. Waxman:

Thank you for your letter dated January 31, 2003, regarding the district court decision in Walker v. Cheney and your kind words on GAO's performance during my tenure as Comptroller General of the United States (CG).

I am announcing my decision today and have attached a copy of our press statement for your information (attachment). This decision, like my initial decision to file suit last February, was by no means an easy one to make because many factors needed to be considered, including legal, institutional and other issues. In addition, there were good arguments to be made both for and against an appeal. Please be assured that my decision was based on what, in my best judgment, is in the best overall interests of the Congress, the GAO, and the American public. I also feel comfortable that it is fully consistent with GAO's core values of "accountability, integrity, and reliability."

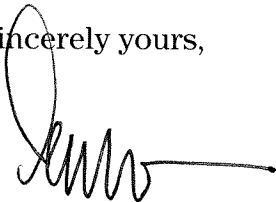
As noted in the attached statement, we strongly disagree with the district court decision. We do not, however, agree with your characterization of the opinion. In addition, we do not believe that the district court opinion will have a significant adverse effect on our ability to serve the Congress and the American people. Furthermore, with regard to GAO's policy of not disenfranchising the minority, the Court's decision did not address, and does not affect, our engagement acceptance policy or the CG's authority to conduct self-initiated work.

As you know, in enacting 31 U. S. C. §716, the Congress gave GAO the independent right to sue to compel the production of information irrespective of whether the request is made by a committee, a member, or is self-initiated by the CG. As the attachment notes, the district court's decision in Walker v. Cheney does not set a binding precedent on GAO's overall right to sue in the future. Importantly, it does not affect GAO's statutory audit authority, access rights, or the obligation of agencies to provide GAO information. As a result, we remain willing and able, should the facts and circumstances warrant, to file suit to press our access rights in connection with a different matter in the future. In addition, the court's decision does not affect GAO's ability to issue demand letters and statutory reports to the Congress in connection

with an agency's refusal to disclose information to which we are entitled. There are also traditional remedies available to the Congress that can, have, and, we trust, will continue to be employed to aid our audit and access authority. However, as I noted when we met, given the district court's decision, and other considerations, as a matter of procedural prudence, I believe it would be appropriate to have an affirmative statement of support from at least one full committee with jurisdiction over any records access matter prior to any future court action by GAO. Furthermore, now that I have been in office for over four years, I believe it is appropriate to work with you and other Congressional leaders to review and update our current Congressional protocols and address certain other related matters.

We appreciate your past understanding and support and we trust that we can count on that same understanding and support in the future. I would be pleased to meet with you to discuss my decision should you so desire. In addition, I look forward to meeting with you soon to discuss our Congressional protocols and related matters.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'DMW', followed by a horizontal line extending to the right.

David M. Walker
Comptroller General
of the United States

Attachment